
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State needs to
2 reduce its dependence on oil. The legislature further finds
3 that the energy cost adjustment clause contributes to the
4 continued use of oil by allowing the energy utilities to avoid
5 all financial risks associated with the costs of fuel and fuel
6 price volatility by passing these costs through to their
7 customers.

8 The purpose of this measure is to motivate electricity
9 suppliers to pursue renewable energy by requiring the public
10 utilities commission, by December 31, 2007, to determine whether
11 to eliminate the fuel adjustment clause or to establish
12 ratemaking provisions that amend the fuel adjustment clause to
13 share fuel oil cost increases and decreases between utility
14 shareholders and utility customers.

15 SECTION 2. Section 269-1, Hawaii Revised Statutes, is
16 amended by adding two new definitions to be appropriately
17 inserted and to read as follows:



1 "Fuel adjustment clause" means a provision of a rate
2 schedule that provides for increases or decreases or both,
3 without prior hearing, in rates reflecting increases or
4 decreases or both in costs incurred by an electric or gas
5 utility for fuel and purchased energy due to changes in the unit
6 cost of fuel and purchased energy.

7 "Fuel oil" shall include all petroleum-based fuels,
8 including residual fuel oil, diesel fuel oil, naphtha, and other
9 fuels refined from petroleum."

10 SECTION 3. Section 269-16, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§269-16 Regulation of utility rates; ratemaking**
13 **procedures.** (a) All rates, fares, charges, classifications,
14 schedules, rules, and practices made, charged, or observed by
15 any public utility, or by two or more public utilities jointly,
16 shall be just and reasonable and shall be filed with the public
17 utilities commission. The rates, fares, classifications,
18 charges, and rules of every public utility shall be published by
19 the public utility in such manner as the public utilities
20 commission may require, and copies furnished to any person on
21 request.



1 To the extent the contested case proceedings referred to in
2 chapter 91 are required in any rate proceeding in order to
3 ensure fairness and to provide due process to parties which may
4 be affected by rates approved by the commission, such
5 evidentiary hearings shall be conducted expeditiously and shall
6 be conducted as a part of the ratemaking proceeding.

7 (b) No rate, fare, charge, classification, schedule, rule,
8 or practice, other than one established pursuant to an automatic
9 rate adjustment clause previously approved by the commission,
10 shall be established, abandoned, modified, or departed from by
11 any public utility, except after thirty days' notice as
12 prescribed in section 269-12(b) to the commission and prior
13 approval by the commission for any increases in rates, fares, or
14 charges. The commission may, in its discretion and for good
15 cause shown, allow any rate, fare, charge, classification,
16 schedule, rule, or practice to be established, abandoned,
17 modified, or departed from upon notice less than that provided
18 for in section 269-12(b). A contested case hearing shall be
19 held in connection with any increase in rates and such hearing
20 shall be preceded by a public hearing as prescribed in section
21 269-12(c) at which the consumers or patrons of the public
22 utility may present testimony to the commission concerning the



1 increase. The commission, upon notice to the public utility,
2 may suspend the operation of all or any part of the proposed
3 rate, fare, charge, classification, schedule, rule, or practice
4 or any proposed abandonment or modification thereof or departure
5 therefrom and after a hearing by order regulate, fix, and change
6 all such rates, fares, charges, classifications, schedules,
7 rules, and practices, so that the same shall be just and
8 reasonable and prohibit rebates and unreasonable discrimination
9 between localities, or between users or consumers, under
10 substantially similar conditions, regulate the manner in which
11 the property of every public utility is operated with reference
12 to the safety and accommodation of the public, prescribe its
13 form and method of keeping accounts, books, and records, and its
14 accounting system, regulate the return upon its public utility
15 property, the incurring of indebtedness relating to its public
16 utility business, and its financial transactions and do all
17 things in addition which are necessary and in the exercise of
18 such power and jurisdiction, all of which as so ordered,
19 regulated, fixed, and changed shall be just and reasonable, and
20 such as shall provide a fair return on the property of the
21 utility actually used or useful for public utility purposes.



1 (c) The commission may in its discretion and after public
2 hearing, upon showing by a public utility of probable
3 entitlement and financial need, authorize temporary increases in
4 rates, fares, and charges; provided that the commission shall by
5 order require the public utility to return in the form of an
6 adjustment to rates, fares, or charges to be billed in the
7 future any amounts, with interest at a rate equal to the rate of
8 return on such public utility's rate base found to be reasonable
9 by the commission, received by reason of such continued
10 operation which are in excess of the rates, fares, or charges
11 finally determined to be just and reasonable by the commission.
12 Interest on any such excess shall commence as of the date that
13 any rate, fare, or charge goes into effect which results in any
14 such excess and shall continue to accrue on the balance of any
15 such excess until returned.

16 (d) By December 31, 2007, to share the risks of reliance
17 on oil fired generation, the commission shall determine whether
18 to:

- 19 (1) Eliminate the fuel adjustment clause; or
20 (2) Establish ratemaking provisions that amend the fuel
21 adjustment clause to share fuel oil cost increases and



1 decreases between utility shareholders and utility
2 customers.

3 (e) If the commission determines that the fuel adjustment
4 clause shall not be eliminated, the fuel adjustment clause shall
5 be amended. Ratemaking shall set the percentage of changes in
6 fuel oil prices that may be automatically passed through the
7 fuel adjustment clause.

8 ~~(d)~~ (f) The commission shall make every effort to
9 complete its deliberations and issue its decision as
10 expeditiously as possible and before nine months from the date
11 the public utility filed its completed application; provided
12 that in carrying out this mandate the commission shall require
13 all parties to a proceeding to comply strictly with procedural
14 time schedules which it establishes. If a decision is rendered
15 after the nine-month period, the commission shall in writing
16 report the reasons therefor to the legislature within thirty
17 days after rendering the decision.

18 Notwithstanding subsection (c), if the commission has not
19 issued its final decision on a public utility's rate application
20 within the nine-month period stated in this section, the
21 commission shall within one month after the expiration of the
22 nine-month period render an interim decision allowing the



1 increase in rates, fares and charges, if any, to which the
2 commission, based on the evidentiary record before it, believes
3 the public utility is probably entitled. The commission may
4 postpone its interim rate decision thirty days if the commission
5 considers the evidentiary hearings incomplete. In the event
6 interim rates are made effective, the commission shall by order
7 require the public utility to return in the form of an
8 adjustment to rates, fares, or charges to be billed in the
9 future any amounts, with interest at a rate equal to the rate of
10 return on such public utility's rate base found to be reasonable
11 by the commission, received under such interim rates which are
12 in excess of the rates, fares or charges finally determined to
13 be just and reasonable by the commission. Interest on any such
14 excess shall commence as of the date that any rate, fare, or
15 charge goes into effect which results in any such excess and
16 shall continue to accrue on the balance of any such excess until
17 returned.

18 The nine-month period in this subsection shall begin only
19 after a completed application has been filed with the commission
20 and a copy served on the consumer advocate. The commission
21 shall establish standards concerning the data required to be set
22 forth in the application in order for it to be deemed a



1 completed application. The consumer advocate may within twenty-
2 one days after receipt object to the sufficiency of any
3 application and the commission shall hear and determine any such
4 objection within twenty-one days after the same is filed. If
5 the commission finds that the objections are without merit, the
6 application shall be deemed to have been completed upon original
7 filing. If the commission finds the application to be
8 incomplete, it shall require the applicant to submit an amended
9 application consistent with its findings and the nine-month
10 period shall not commence until the amended application is
11 filed.

12 [~~e~~] (g) In any case of two or more organizations,
13 trades, or businesses (whether or not incorporated, whether or
14 not organized in the State of Hawaii, and whether or not
15 affiliated) owned or controlled directly or indirectly by the
16 same interests, the commission may distribute, apportion, or
17 allocate gross income, deductions, credits or allowances between
18 or among the organizations, trades, or businesses, if it
19 determines that the distribution, apportionment, or allocation
20 is necessary in order to adequately reflect the income of any
21 such organizations, trades, or businesses to carry out the
22 regulatory duties imposed by this section.



1 [~~(f)~~] (h) Notwithstanding any law to the contrary, for
2 public utilities having annual gross revenues of less than
3 \$2,000,000, the commission may make and amend its rules and
4 procedures which will provide the commission with sufficient
5 facts necessary to determine the reasonableness of the proposed
6 rates without unduly burdening the utility company and its
7 customers. In the determination of the reasonableness of the
8 proposed rates, the commission shall:

9 (1) Require the filing of a standard form application to
10 be developed by the commission. The standard form
11 application for general rate increases shall describe
12 the specific facts that must be submitted to support a
13 determination of the reasonableness of the proposed
14 rates, and require the submission of financial
15 information in conformance with a standard chart of
16 accounts to be approved by the commission, and other
17 commission guidelines to allow expeditious review of a
18 requested general rate increase application;

19 (2) Hold a public hearing as prescribed in section
20 269-12(c) at which the consumers or patrons of the
21 public utility may present testimony to the commission
22 concerning the increase. The public hearing shall be



1 preceded by proper notice, as prescribed in section
2 269-12; and

3 (3) Make every effort to complete its deliberations and
4 issue a proposed decision and order within six months
5 from the date the public utility files a completed
6 application with the commission, provided that all
7 parties to the proceeding strictly comply with the
8 procedural schedule established by the commission and
9 no person is permitted to intervene. If a proposed
10 decision and order is rendered after the six-month
11 period, the commission shall report in writing the
12 reasons therefor to the legislature within thirty days
13 after rendering the proposed decision and order.

14 Prior to the issuance of the commission's proposed
15 decision and order, the parties shall not be entitled
16 to a contested case hearing.

17 If all parties to the proceeding accept the
18 proposed decision and order, the parties shall not be
19 entitled to a contested case hearing, and section
20 269-15.5 shall not apply. If the commission permits a
21 person to intervene, the six-month period shall not
22 apply and the commission shall make every effort to



1 complete its deliberations and issue its decision
2 within the nine-month period from the date the public
3 utility's completed application was filed, pursuant to
4 subsections (b), (c), and [~~(d)~~] (f).

5 If a party does not accept the proposed decision
6 and order, either in whole or in part, that party
7 shall give notice of its objection or nonacceptance
8 within the timeframe prescribed by the commission in
9 the proposed decision and order, setting forth the
10 basis for its objection or nonacceptance; provided
11 that the proposed decision and order shall have no
12 force or effect pending the commission's final
13 decision. If notice is filed, the above six-month
14 period shall not apply and the commission shall make
15 every effort to complete its deliberations and issue
16 its decision within the nine-month period from the
17 date the public utility's completed application was
18 filed as set forth in subsection [~~(d)~~] (f). Any
19 party that does not accept the proposed decision and
20 order under this paragraph shall be entitled to a
21 contested case hearing; provided that the parties to
22 the proceeding may waive the contested case hearing.



1 Public utilities subject to this subsection shall follow
2 the standard chart of accounts to be approved by the commission
3 for financial reporting purposes. The public utilities shall
4 file a certified copy of the annual financial statements in
5 addition to an updated chart of accounts used to maintain their
6 financial records with the commission and consumer advocate
7 within ninety days from the end of each calendar or fiscal year,
8 as applicable, unless this timeframe is extended by the
9 commission. The owner, officer, general partner, or authorized
10 agent of the utility shall certify that the reports were
11 prepared in accordance with the standard chart of accounts."

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.



HB3053, SD1

Report Title:

Energy Cost Adjustment Clause

Description:

Directs the public utilities commission to eliminate or adjust the energy cost adjustment clause. (SD1)

